IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL REFERENCE NO. 11 OF 2003

Kamalkant Wamanrao Vitonde
Judge, Labour Court, Thane.

Vs.

Mr. Narendra Nath Singh and ors. Respondents

Mr. D.S. Joshi h/f Mr. Indrajeet Kulkarni for Respondent No.1.
Mr. S.B. Keswani for Respondent No.2.
Mrs.A.S. Pai, APP for Respondent No.3-State.

CORAM : S.S. PARKAR &
SMT. RANJANA DESAI,JJ.

Date : August 05, 2004.

ORAL JUDGMENT (PER S.S. PARKAR,J.):

1. This reference is made under Section 15(2) of the Contempt of Courts Act by Shri K.W. Vitonde, Judge, Labour Court, Thane against Respondent Nos.1 and 2.

2. The allegation made by the complainant Uday Pratap Singh, who is a workman, is that Respondent No.2 demanded a sum of Rs.10,000/- for being paid to the Learned Judge otherwise his case would be spoiled. The allegation against respondent no.1 is that in his presence, respondent no.2 obtained signatures of the workman on 6-7 papers and they told him that his case would be transferred from Court No.3 to Court No.4. Mr.Keswani states that Court No.3 was presided over by

the learned Judge who has made this reference and before whom the complainant-workman's case was pending. When the said allegations were made in the open court by the complainant-workman, he was asked to step into the witness box and give statement on oath which was recorded by the learned Judge.

3. On the basis of the said allegations recorded by the learned Judge, show-cause notice was issued to both the respondent nos.1 and 2 on 9/4/2003. In reply to the show-cause notice reply dated 23/4/2003 was filed by both the respondents. In the said reply both the respondents have denied the allegations made against them and have requested for an opportunity to cross-examine the complainant-workman. However, without giving any opportunity to cross-examine the complainant and without the respondent nos.1 and 2 - contemners being heard, the learned Judge made this reference to this court.

4. After the reference was made to this court, notices were issued to both the respondents and they have filed their reply affidavits in this court. Respondent No.1 has filed reply affidavit dated 17/2/2004 and respondent no.2 has filed reply affidavit dated 4/3/2004. The respondent nos.1 and 2,

in their reply affidavits filed in this court, have denied allegations made by the complainant on oath and made grievance that no opportunity was given to them to cross-examine the complainant nor hearing was given to them. It is contended by Mr. Keswani that there is violation of principle of natural justice. The say of the respondents is that false allegations have been made against them without giving them any opportunity to cross-examine the complainant or being heard.

5. The oral allegations made by the workman-complainant were recorded on oath by the learned Judge, who has made reference to this court. Before the learned Judge himself the contemners had asked for an opportunity to cross-examine the workman-complainant but that opportunity was denied to them. The learned Judge without hearing the contemners and without even giving opportunity to contemners to cross examine the complainant made reference to this court. The contemners have in their reply filed before the Labour Court as well as before this court denied the allegations made by the workman-complainant. It is word against word. In the contempt proceedings punishment that can be awarded may be even sentence of imprisonment. The respondent nos.1 & 2 cannot be condemned without being

heard or without being given sufficient opportunity to demolish the allegations made against them by the workman-complainant. In the circumstances, it would not be desirable to take any action under the provisions of Contempt of Courts Act against the contemners on the mere allegations made orally by the workman-complainant.

6. In the result, the notices issued to the Respondent Nos.1 and 2 - contemners are discharged.

(S.S. Parkar, J.)

(Smt. Ranjana Desai,J.)